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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	
	:	Case No. 2:10-CR-00252 DB
Plaintiff,	:	
	:	UNITED STATES' RESPONSE TO
vs.	:	DEFENDANT'S MOTION FOR
	:	REVIEW OF DETENTION
GRACE HELEN DAVIE,	:	
	:	Judge Dee Benson
Defendant.	:	

The United States, by and through the undersigned Special Assistant United States Attorney, hereby submits the following Response to Defendant's Motion for Review of Detention.

The Court should order defendant detained because she is a risk of danger to the community. The issue of whether Magistrate Judge Warner had the authority to revoke the defendant's prior release is irrelevant. This is because "[a] district court's review of a magistrate judge's detention or release order . . . is de novo." *United States v. Cisneros*, 328 F.3d 610, 616 (10th Cir. 2003). In fact, the district court has the authority to review a

magistrate's previous order of release or detention, even without a motion filed pursuant to 18 U.S.C. § 3145. *See id.* (holding that it is within a district court's authority to review release or detention orders sua sponte). This Court must determine de novo whether defendant is a flight risk or a risk of danger.

Defendant should be held in custody while this case is pending because she is a risk of danger to the community. In this case, the United States does not assert that the defendant is a flight risk. However, the United States has continually sought detention of the defendant based upon the potential danger she poses to the community. The defendant's criminal history shows convictions for a prior offense involving a firearm, several violent offenses, and two separate instances of witness tampering. The offenses range in date from 1999 to as recent as 2008. The defendant is also currently subject to an active protective order. Additionally, the defendant has expressed an absolute unwillingness to comply with probation requirements imposed by the state court and Adult Probation and Parole. The span and seriousness of the defendant's criminal history is indicative of the danger she poses to the community. Furthermore, based on her defiant attitude toward previous judicial orders, it is unlikely the defendant would abide by conditions of release imposed by this Court.

Defendant asserts that her various physical ailments cannot be adequately addressed while she is incarcerated. Jon Burnett, Acting Supervisory Deputy of the United States Marshals for the District of Utah, is currently researching the specific

medical services available to the defendant at the Davis County Jail. Mr. Burnett is willing to provide the Court with that information at the hearing currently scheduled for Monday, April 19, 2010 at 11:00 a.m.

DATED this 16th day of April, 2010.

CARLIE CHRISTENSEN
Acting United State Attorney

/s/ Victoria K. McFarland
VICTORIA K. McFARLAND
Special Assistant United States Attorney